

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

IN RE: Roberto Lima
Genoveva Lima

CASE NO.:

CHAPTER 13

SSN: ***-**-1954

SSN:***-**-0691

**CHAPTER 13 PLAN AND MOTION TO VALUE COLLATERAL AND TO
AVOID LIENS UNDER 11 USC Sec. 506**

☒Original ☐ Amended Date

YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully and discuss them with your attorney. If you disagree with any provision of this plan or any motion made below, you must file with the bankruptcy court a timely written objection. Unless a written objection is filed before the deadline stated in the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors and Deadlines, the court may grant the motion(s) and confirm the plan without further notice or hearing.

VALUATION OF SECURED CLAIMS AND DETERMINATION OF INTEREST RATE.

With respect to secured claims listed in paragraphs 3(A) and 3(B), the value of such creditor's collateral shall be set forth in the Value column of paragraph 3(A) and the Proposed Secured Claim Amount in paragraph 3(B), unless an objection to confirmation of this plan is timely filed. The filing of a proof of claim asserting a different value will not be deemed to constitute an objection. If the columns for Value or the Proposed Secured Claim Amount are left blank, the allowed secured claim amount shall be determined using the applicable provisions of the Bankruptcy Code and Bankruptcy Rules (hereinafter the "Claim Allowance Process"). The interest rate to be paid on any secured claim shall be that set forth in the plan unless an objection is timely filed.

ALLOWANCE OF OTHER CLAIMS. The amount of all other allowed claims to be paid through the plan shall be determined pursuant to the Claims Allowance Process, unless a timely objection to the plan is filed. However, creditors must timely file a proof of claim before the Trustee will disburse on any allowed claim under the confirmed plan.

1. PAYMENT AND LENGTH OF PLAN

A. Debtor(s) shall pay \$1,000.00 per month to the Chapter 13 Trustee starting on the first date set for the meeting of creditors held pursuant to 11 USC sec. 341 and continuing thereafter on the 25th of each following month for approximately n/a months.

B. Other payments to Trustee:

C. Check applicable length: (select one applicable option)

☐ (i) ___ The number of months necessary to pay required distributions under paragraphs set forth below in this plan, estimated at n/a months;

☒ (ii) ___ Not less than 36 months to be extended as necessary to pay required distributions under paragraph 2-7 below; or

☐ (iii) ___ 60 months. Cause exists to extend the length of the plan beyond three years.

2. TRUSTEE'S PERCENTAGE FEE. Prior to or at the time of disbursements under this plan, the Trustee may collect the percentage fee allowed under 28 USC sec. 586(e).

3. SECURED CLAIMS PAID BY THE TRUSTEE

A. MOTIONS TO VALUE COLLATERAL AND TO VOID LIENS UNDER 11 USC sec. 506

Debtor(s) moves to value the collateral of creditors as indicated below. The Trustee shall pay allowed secured claims the value indicated or the amount of the claim, whichever is less. The portion of any allowed claim that exceeds the value indicated shall be treated as an unsecured claim. Debtor(s) move to void the lien of any creditor listed below as having collateral with "NO VALUE."

Creditor	Collateral	Scheduled Debt	Value	Interest rate	Adequate Protection	*Monthly Pmt. #2
None						

* MONTHLY PAYMENT NUMBER 2 SHALL COMMENCE, IF APPLICABLE, IN THE ____ MONTH OF THE PLAN.

B. SECURED CLAIMS NOT SUBJECT TO 11 USC sec. 506. Pursuant to 11 USC sec. 1325(a), the claims listed below are not subject to 11 USC sec. 506 and shall be paid in the amount of the Proposed Secured Claim Amount specified below, in accordance with the terms set forth below:

Creditor	Collateral	Proposed Secured Claim Amount (if less than claim)	Estimated Claim Amount	Interest Rate	Adequate Protection	*Monthly Pmt. # 2
None						

* MONTHLY PAYMENT NUMBER 2 SHALL COMMENCE, IF APPLICABLE, IN THE ____ MONTH OF THE PLAN.

If the above column for the proposed secured claim amount is left blank, the secured claim amount paid shall be the entire amount of the allowed secured claim. The portion of any allowed claim that exceeds the secured claim amount specified above shall be treated as an unsecured claim. **The Debtor(s) propose that the affected creditors accept the treatment specified above. FAILURE OF A CREDITOR TO TIMELY FILE A WRITTEN OBJECTION TO THIS PLAN PRIOR TO CONFIRMATION SHALL CONSTITUTE ACCEPTANCE OF BOTH THE PLAN AND THE TREATMENT OF ITS CLAIM AS SET FORTH THEREIN.**

C. ADEQUATE PROTECTION. Pursuant to Standing Order No.2 and Amended LBR 2083-1(b), the Trustee is authorized to commence before confirmation of the plan making adequate protection payments in the monthly payment amount specified in paragraphs 3A and 3B above to any creditor listed above who has filed a proof of claim. The Trustee is permitted to collect a percentage fee based on such funds. If such funds are not disbursed prior to dismissal or conversion of the case, the Trustee may disburse such adequate protection payments following dismissal or conversion. If the plan provides that the Debtor(s) shall make payments directly to a secured creditor, the Debtor(s) shall make adequate protection payments on such claim as provided in 11 USC sec. 1326(a)(C). Unless otherwise provided in the plan, any pre-confirmation lease payments shall be made directly by the Debtor(s) and not by the Trustee.

Creditor	Collateral	Monthly Adequate Protection Payment
See Above		

D. ADMINISTRATIVE PROVISIONS REGARDING SECURED CLAIMS. Notwithstanding any contrary interest rate stated in the proof of claim, the Trustee shall pay interest on such claims at the rate specified above, and

if no interest rate is specified, the interest rate shall be 7%. The Trustee shall pay interest from the effective date of the confirmation order and unless otherwise specified in paragraph 10(d) below, no interest will accrue from the petition date to the confirmation date. To the extent there are not sufficient funds available after the payment of amounts entitled to payment under a higher order of distribution to make the full monthly payments set forth in this plan, then the Trustee shall make a pro-rate distribution, based on the monthly payment amounts, of available funds on all claims specified in paragraphs 3A and 3B and regular monthly payment made under paragraph 7(a).

4. DEBTOR(S) ATTORNEY'S FEES. Subject to any further fee applications, the plan requests allowance of attorney's fees in the amount of \$2,750.00 of which \$2,324.00 remains unpaid. Unless otherwise specified in paragraph 10© or 10(e) below, allowed fees shall be paid by the Trustee from funds available after distribution provided in paragraph 3A through 3C above and before disbursement to any other class of claims.

5. PRIORITY CLAIMS

Subject to the provision for the payment of Debtor(s) attorney fees set forth above, allowed claims entitled to priority under 11 USC sec. 507(a), including allowed administrative expense claims and domestic support obligations, will be paid in full in the order of priority set forth in section 507(a), unless otherwise specified in paragraphs 10(c) or 10(e) below. The estimated amount of such priority claims is \$44,150.00 .

6. NON-PRIORITY UNSECURED CLAIMS.

(a) Not Separately Classified. Allowed non-priority unsecured claims shall be paid:

☒ Not less than \$ 1,000.00 to be distributed pro-rata.

☐ Not less than ____% percent.

☐ Pro-rata distribution from any funds remaining.

(b) Separately classified unsecured claims.

Creditor	Basis for Classification	Treatment	Amount
None			

7. CURING DEFAULT AND MAINTAINING PAYMENTS

A. The Trustee shall pay allowed claims for arrearages, and the Trustee shall pay regular post-petition monthly payments directly to these creditors:

Creditor	Collateral or Type of Debt	Estimated Arrearage	Interest Rate (Arrearage)	Monthly Arrearage Payment	Regular Monthly Payment	*Monthly Pmt. # 2
None						

* MONTHLY PAYMENT NUMBER 2 SHALL COMMENCE, IF APPLICABLE, IN THE ____ MONTH OF THE PLAN.

B. The Trustee shall pay allowed claims for arrearages and the Debtor(s) shall pay regular post-petition payments directly to these creditors:

Creditor	Collateral or Type of Debt	Estimated Arrearage	Interest Rate (Arrearage)	Monthly Arrearage Payment	Regular Monthly Payment	*Monthly Pmt. #2
None						

* MONTHLY PAYMENT NUMBER 2 SHALL COMMENCE, IF APPLICABLE, IN THE ____ MONTH OF THE PLAN.

8. EXECUTIVE CONTRACTS AND UNEXPIRED LEASES

All executory contracts and unexpired leases are rejected, except the following are assumed:

Creditor	Property Description	Treatment by Debtor(s)
None		

9. COLLATERAL SURRENDERED AND RELIEF FROM THE AUTOMATIC STAY.

The Debtor(s) surrender the following collateral to the secured creditor. Upon entry of the confirmation order, the automatic stay is lifted as to the collateral, which will, among other rights, will permit the secured creditor to exercise its set off rights with respect to the surrendered collateral.

Creditor	Collateral to be Surrendered	
Wells Fargo	Residential 1 st Mortgage	
Beehive Credit Union	Residential 2 nd Mortgage	

The Trustee shall make no distribution on any secured claim related to the surrendered collateral. The allowed amount of any unsecured deficiency claim will be any unsecured amount stated in the claim or any amendment thereto, provided, however, if a creditor fails to file any required amended claim for an unsecured deficiency within 180 days after the petition date, the claim will be deemed paid in full, and the Trustee will not make any distributions to such creditor. Any allowed claim will be paid pursuant to paragraph 6 of this plan.

10. OTHER PLAN PROVISIONS AND MOTIONS.

A. Lien retention. Allowed secured claim holders retain liens until the earlier of the payment of the underlying debt determined under applicable non-bankruptcy law or the entry of discharge under 11 USC sec. 1328.

B. Payment Notices. Creditors and lessors provided for above in sections 7 or 8 may continue to mail customary notices or coupons to the Debtor(s) or Trustee notwithstanding the automatic stay.

C. Order of Distribution. (check appropriate option)

If no monthly payment is specified, payments will be paid pro-rata within the designated distribution level and payments to claims in a particular distribution level will be paid in full before distribution to claims in a lower distribution level. If the monthly payments are specified, such monthly payments must be current, but such claim need not be paid in full, before distribution to a Class specified in a lower distribution level.

☒ (1) Trustee's Percentage Fee under paragraph 2; (2) Secured Creditor Payments specified in paragraph 3 and any regular post-petition monthly payments required to be made by the Trustee under paragraph 7(a); (3) Attorney's Fees under paragraph 4; (4) Claims entitled to priority under 11 USC sec. 507(a)(1); (5) Arrearage payments under paragraph 7; (6) Remaining priority claims specified under paragraph 5; (7) Non-priority unsecured claims specified under paragraph 6; and (8) Other distributions required by the plan; **or**

☐ In lieu of the distribution order specified above, the Trustee shall pay allowed claims in the following order: (1) Trustee's percentage fee under paragraph 2; (2) _____; (3) _____; (4) _____; (5) _____; (6) _____; (7) _____; and (8) _____.

Other _____.

D. Tax Refund Provisions: Unless otherwise ordered by the Court, or unless the Plan provides for a 100% return plus interest to creditors, the Debtors shall pay into the Plan the aggregate amount of yearly state and federal refunds that exceed \$ 1,000.00 that the Debtors receive or become entitled to receive during the three (3) year period starting with the filing of the bankruptcy petition. On or before April 30 of each year that falls within the three year period, the Debtors will provide the Trustee a copy of the first two pages of both state and federal returns. If the total amount of both federal and state returns for that year exceeds the \$ 1,000.00, the excess shall be paid into the Chapter 13 Plan no later than June 30 of that year. However, the Debtors shall not be obligated to pay over tax refunds that have been properly offset by a taxing authority. Tax refunds paid into the Plan may reduce the overall Plan terms if it is greater than thirty-six (36) months, but in no event shall the amount paid into the Plan be less than the Thirty-six

(36) Plan payments **plus** all tax refunds in excess of the \$ 1,000.00 during the three year period described above.

E. Other Plan Provisions:

(1) Any order confirming this plan shall constitute a binding determination that the Debtor(s) has timely filed all of the information required under 11 USC sec. 521(a)(1).

(2) Any allowed secured claim filed by a taxing authority no otherwise provided for by this plan shall be paid in full at the same distribution level as arrearage claims provided for under paragraph 7, with interest at the rate as set forth in the proof of claim or at 4% per annum if no interest rate is specified in the proof of claim. Interest will run from [] (a) the petition filing date; or [X] (b) the confirmation date.

(3)

(4)

/s/ Kevin G. Richards
Attorney for Debtor(s)

The Debtor(s) or their attorney certifies that this Plan does not alter the provisions of the Model Chapter 13 Plan Form as set forth at www.utb.uscourts.gov/clerks_office/forms/formsnew.htm except as follows: None